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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/576,337	03/14/2007	Sedat Selvi	38566-79926	9693
23643 7590 10/29/2008 BARNES & THORNBURG LLP 11 SOUTH MERIDIAN INDIANAPOLIS, IN 46204				
EXAMINER				
MAL, TRI M				
ART UNIT		PAPER NUMBER		
3781				
MAIL DATE		DELIVERY MODE		
10/29/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/576,337

Applicant(s)

SELVI, SEDAT

Examiner

Tri M. Mai

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 26-37 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1 and 26-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/ICE)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the additional expansion zipper and the internal stiffening member in claims 27, 32 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

2. The declaration under 37 CFR 1.131 has been considered but they are not sufficient to overcome the rejections under Hsich. It is noted that only certain embodiment, notably the embodiment in fig. 3 is supported by the declaration. Furthermore, the added zipper in claim 26 is not supported by the presented evidence. Also, the wheel structure in Fig. 5 does not have sufficient support. Furthermore, the assertions in paragraphs 3, 5, 6 are incorrect since there are

two separate dates of priority and one date of priority is supported by the declaration. In response to this office action, applicant is required to point out exactly what limitations in each of the claims are covered by the evidence shown in the declaration under 37 CFR 1.131 and detailing the corresponding support in the evidence. Applicant is also need to correct said paragraphs 3, 5-6 to provide the correct information detailing certain claims are being invention with two separate priorities covering two separate embodiments and what features are covered by the evidence. In view of this insufficient and incorrect declaration, the rejection over Hsieh is maintained.

3. Claims 1, and 26-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claim set forth the limitations that there is no internal/external perimeter framing and reinforcing side, base and back panels. However, it is noted that there are supporting panels 25, and 18 that are required to support the luggage wheels and handles.

4. Claims 1, 26, 31, 32, and 34-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nykoluk (6062356) in view of Lee (5284542) or Chang (20040101669). Nykoluk teaches a device that having the means of zipper arrangement that provide the expansion and opening. Nykoluk '874 meets all claimed limitations except for the material being molded foamed plastic. It would have been obvious to one of ordinary skill in the art to make the case from foamed plastic as taught by Lee or Chang to provide the desired material for the case.

Regarding claim 31, note the piping 51 in Figs. 2, 7.

5. Claims 27, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nykoluk rejection, as set forth above in paragraph 4, and further in view of Kotskin, Jr. (4773515). Kotskin teaches that it is known in the art to provide additional section of zip fasteners. It would have been obvious to one of ordinary skill in the art to provide additional sections of zip fasteners as taught by Kotskin to provide additional room for the contents.

Regarding claim 33, Kotskin teaches that it is known in the art to provide multiple pipings as shown in Fig. 4. It would have been obvious to one of ordinary skill in the art to provide additional pipings as claimed to provide added support at the zipper.

6. Claim 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Nykoluk rejection, as set forth above in paragraph 4, in view of Ikelheimer (6102172). It would have been obvious to one of ordinary skill in the art to provide corrugations as taught by Ikelheimer to enable the manufacture of the shells easily.

7. Claims 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nykoluk rejection, as set forth in paragraph 4, and further in view of either Nykoluk et al. (6629588) or Mitomi et al. (5447261). To the degree it is argued that Nykoluk combination does not teach the indentations at the corners. Either Nykoluk '588 or Mitomi teaches that it is known in the art to provide indentations at the corners. It would have been obvious to one of ordinary skill in the art to provide indentations at the corners as taught by either Nykoluk '588 or Mitomi to provide the desired wheel assembly for the case.

8. Claims 1, 26, 29, 30, 31, 32, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh (20050056511) in view of Nykoluk (6062356), and further in view of Lee. Hsieh teaches a soft molded suitcase. Hsieh meets all claimed limitations except for the

material being foamed plastics EVA. Lee teaches that it is known in the art to provide foamed plastic EVA in making a luggage. It would have been obvious to one of ordinary skill in the art to provide foamed plastic as taught by Lee to provide the desired material for the luggage. With respect to the zipper arrangement that provide the expansion. Nykoluk teaches that it is known in the art to provide a zipper arrangement having additional expansion along with the piping support. It would have been obvious to one of ordinary skill in the art to provide the zipper arrangement having additional expansion as taught by Nykoluk to enable one to store additional material.

9. Claim 27, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh rejection, as set forth above in paragraph 8, and further in view of Kotskin, Jr. (4773515). Kotskin teaches that it is known in the art to provide additional section of zip fasteners. It would have been obvious to one of ordinary skill in the art to provide additional sections of zip fasteners as taught by Kotskin to provide additional room for the contents.

Regarding claim 33, Kotskin teaches that it is known in the art to provide multiple pipings as shown in Fig. 4. It would have been obvious to one of ordinary skill in the art to provide additional pipings as claimed to provide added support at the zipper.

10. Claim 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh rejection, as set forth above in paragraph 8, in view of Ikelheimer (6102172). It would have been obvious to one of ordinary skill in the art to provide corrugations as taught by Ikelheimer to enable the manufacture of the shells easily.

11. Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hsieh rejection, as set forth in paragraph 8, and further in view of either Nykoluk et al. (6629588) or

Mitomi et al. (5447261). To the degree it is argued that Nykoluk combination does not teach the indentations at the corners. Either Nykoluk '588 or Mitomi teaches that it is known in the art to provide indentations at the corners. It would have been obvious to one of ordinary skill in the art to provide indentations at the corners as taught by either Nykoluk '588 or Mitomi to provide the desired wheel assembly for the case.

12. Claims 1, 26, 29, 30, 31, 32, 34, and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Him Beek in view of either Chang (20040101669) or Lee and, further in view of Nykoluk (6062356). Van Him Beek teaches a luggage with wheels and the support. Van Himeeck meets all claimed limitations except for the zipper structure. Nykoluk teaches that it is known in the art to provide a zipper arrangement having additional expansion along with the piping support. It would have been obvious to one of ordinary skill in the art to provide the zipper arrangement having additional expansion as taught by Nykoluk to enable one to store additional material with respect to the material, either Chang or Lee teaches that it is known in the art to provide foamed plastic EVA in making a luggage. It would have been obvious to one of ordinary skill in the art to provide foamed plastic as taught by Lee to provide the desired material for the luggage.

13. Claim 27, and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Himbeek rejection, as set forth above, and further in view of Kotskin, Jr. (4773515). Kotskin teaches that it is known in the art to provide additional section of zip fasteners. It would have been obvious to one of ordinary skill in the art to provide additional sections of zip fasteners as taught by Kotskin to provide additional room for the contents.

Regarding claim 33, Kotskin teaches that it is known in the art to provide multiple pipings as shown in Fig. 4. It would have been obvious to one of ordinary skill in the art to provide additional pipings as claimed to provide added support at the zipper.

14. Claim 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Himbeec rejection, as set forth above in paragraph 12, in view of Ikelheimer (6102172). It would have been obvious to one of ordinary skill in the art to provide corrugations as taught by Ikelheimer to enable the manufacture of the shells easily.

15. Claims 36-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Van Himbeec rejection, as set forth in paragraph 12, and further in view of either Nykoluk et al. (6629588) or Mitomi et al. (5447261). To the degree it is argued that Nykoluk combination does not teach the indentations at the corners. Either Nykoluk '588 or Mitomi teaches that it is known in the art to provide indentations at the corners. It would have been obvious to one of ordinary skill in the art to provide indentations at the corners as taught by either Nykoluk '588 or Mitomi to provide the desired wheel assembly for the case.

16. Applicant's arguments have been fully considered but they are not persuasive. With respect to the drawings, it is noted that 37 CFR 1.83(a) requires the drawings must show every feature of the invention specified in the claims. The description in the specification insufficient to satisfy the requirement set forth by 37 CFR 1.83(a). In this case, the claim recites more than one zipper, thus, the drawings must show more than one zipper. The drawing objection stands.

With respect to the rejection over Nykoluk in view of Lee, Applicant asserts that the combination of Nykoluk and Lee is not within the scope of the claim since Nykoluk requires an internal frame. The examiner submits that to change the luggage material of Nykoluk,

including the internal frame with a molded foamed EVA as taught by Lee would have been obvious. The examiner submitted that the foamed EVA as taught by Lee does not have any internal/external perimeter framing and reinforcing side. It is noted of the comparison of the prior art showing the use of a reinforcing bead shown in Fig. 2 with molded foamed EVA with rigid sidewall (shown in Fig. 10) and also in the new the new luggage shown in Fig. 4 absent of any structural reinforcement. Lee also describe in the specification col. 1, ln. 10-20.

Thus, clearly, Lee taught the foamed EVA has advantages over reinforced luggage sidewalls similar like that of Nykoluk. Furthermore, it is noted that Lee clearly teaches the material can be molded into a rigid shape.

"The material panel thus obtained is put in a die 7 before cooling, and then pressed into a covering panel according to the desired shape." (col. 2, ln. 37)

With respect to the assertion that material of Lee whether it is capable to support the wheels, the examiner respectfully submits all that is set forth in claim 1 are base formed from molded material and there is no structural difference between the claimed material and the material as set forth in Lee. Furthermore, the examiner submits that Lee clearly teaches the replacement of the type of luggage with structural support similar to that of Nykoluk with molded foamed EVA for added durability (col. 1, ln. 19). Clearly, the material in Lee is capable of such use with wheels. Furthermore, it is noted that Chang (20040101669) clearly teaches the foamed EVA (paragraph 20) can be used in luggage with wheels as shown in Fig. 1.

17. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tri M. Mai whose telephone number is (571)272-4541. The examiner can normally be reached on 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on (571)272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Tri M. Mai/
Primary Examiner, Art Unit 3781

